

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,) CASE NO. 4:16-CR-242-A
Government,)
VERSUS) FORT WORTH, TEXAS
BALDEMAR SOLIS,) JUNE 9, 2017
Defendant.) 9:05 A.M.

VOLUME 1 OF 1
TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE JOHN MCBRYDE
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S :

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P R O C E E D I N G S

June 9, 2017 - 9:05 a.m.

COURT SECURITY OFFICER: All rise.

Hear ye, hear ye, hear ye, the United States District Court for the Northern District of Texas at Fort Worth is now in session, the Honorable John McBryde presiding.

Let us pray. God bless the United States and this Honorable Court. Amen.

Please be seated.

THE COURT: Good morning.

ALL PRESENT: Morning, Your Honor.

THE COURT: Okay. We're here for a sentencing hearing in Case Number 4:16-CR-242-A. It's United States of America versus Baldemar Solis.

And Mr. Smith's here for the government, and Ms. Moore is here for the defendant.

Let's see. If we'll have the defendant come over, we'll have the whole cast.

Why don't you state your name for the record, Mr. Solis.

THE DEFENDANT: Baldemar Solis.

THE COURT: Okay. You appeared before me for a trial back in February, February 21, 2017, and the jury returned a verdict that day finding you guilty of the offense charged by the one-count indictment in this case, and that was

1 the offense of conspiracy to possess with intent to distribute
2 a controlled substance. Of course, we're here today for
3 sentencing based on the conviction resulting from that jury
4 verdict.

5 Ms. Moore, did you and your client receive in a
6 timely manner the Presentence Report and the addenda -- the
7 addendum to it -- addenda, there were two of them. Did you
8 receive all of those in a timely manner?

9 MS. MOORE: Yes, Your Honor.

10 THE COURT: And did the two of you read all of those
11 items and then discuss them with each other?

12 MS. MOORE: We did, Your Honor.

13 THE COURT: Okay. There were several objections to
14 the Presentence Report. I've issued two tentative conclusion
15 orders expressing some tentative conclusions relative to some
16 of the objections.

17 Does the defendant have any evidence he wishes to
18 offer in support of any of the objections?

19 MS. MOORE: I've got -- I've got some comments to
20 make --

21 THE COURT: No, evidence.

22 MS. MOORE: I understand. We'll call no witnesses.

23 THE COURT: Pardon?

24 MS. MOORE: We're calling no witnesses.

25 THE COURT: Do you have any evidence is my question?

1 MS. MOORE: No, Your Honor.

2 THE COURT: Okay. That was my question.

3 MS. MOORE: Well, actually, I would like to mark as
4 an exhibit the trial testimony that you ordered.

5 THE COURT: That's fine.

6 MS. MOORE: Yes. I take that back. Yes, we do have
7 evidence.

8 THE COURT: That is a part of the record of this
9 action. It's up to you whether you want to add to the record
10 by duplicating it.

11 MS. MOORE: Then I will not. I just wanted to make
12 sure it's in the record.

13 THE COURT: You're talking about the transcript of
14 the three witnesses that I requested the government to
15 provide?

16 MS. MOORE: Yes, Your Honor.

17 THE COURT: And that has been provided by the
18 government, and it's also a part of the record.

19 MS. MOORE: Yes, Your Honor. Okay.

20 THE COURT: Okay. I've requested the government to
21 have certain persons here, if they were available. Let
22 me -- let me take these objections one by one, and then we'll
23 get to the one I'm talking about in a minute.

24 The first objection, it's objection B on pages 2
25 through 4 of the objections we received from the defendant on

1 May 1.

2 Do you have any comments you want to make on that
3 beyond what you've put in the objections and the related
4 objection to the addenda?

5 MS. MOORE: I do, Your Honor.

6 THE COURT: Okay.

7 MS. MOORE: What I would say there is
8 that's -- that's why I'm really glad you ordered that
9 transcript because it helped to remind me of something else to
10 say, and that is, really when you look on page 20 of the
11 testimony -- I guess my comment is this, that Alonzo was held
12 accountable for 475.3 kilos of methamphetamine, and he says in
13 his testimony that he sold 438 kilos to Mr. Solis, which would
14 basically make Mr. Solis his -- really his only client, and I
15 don't think that makes a lot of sense.

16 What makes sense to me is that he had other clients
17 and he did not want to name them, and so I think it goes to my
18 complaint about his credibility because it overstates the case
19 on Baldemar Solis.

20 THE COURT: Okay. Any other comments?

21 MS. MOORE: I guess along the same lines -- oh,
22 well, with respect to that particular objection number B, no,
23 Your Honor. That's --

24 THE COURT: Okay. Well, I'm going to overrule that
25 objection. There may be some slight discrepancies, but I

1 don't think they are significant enough to cause the Court not
2 to accept the findings in the Presentence Report on the
3 subjects under discussion, which the probation officer
4 considered to be based on reliable information.

5 Okay. The B -- I mean, the C objection is in the
6 top of page 5 of the objections the Court received on May 1.

7 Did you have any comments you wanted to make on
8 that?

9 MS. MOORE: No, I think the comments that I've made
10 are the best I can do.

11 THE COURT: Okay. Well, I'm going to overrule that
12 objection. There is some indication in the material, and I
13 think it's reliable information, that even while the defendant
14 was in Mission, he was engaging in drug trafficking to some
15 extent.

16 I think he tried, through his wife, to -- well, his
17 wife made contact with him on behalf of a person, I guess on
18 the defendant's behalf, to see if she would continue to
19 participate in the drug trafficking at a time when he was in
20 Mission.

21 I'm going to overrule that objection. I think that
22 the recitations in the Presentence Report on that subject are
23 based on reliable information.

24 Okay. Your next objection has to do with
25 the -- it's objection D on page 5 of the objections we

1 received on May 1, and that has to do with what appears to be
2 a discrepancy between what Defendant Tricomi said she obtained
3 methamphetamine from Solis for and what he said he paid for
4 it. Actually, I think in her trial testimony, she indicated
5 that she paid \$1,000 per, I believe, ounce for the
6 methamphetamine she received from Tricomi.

7 But I don't think the discrepancies, if any, we're
8 talking about are significant enough to cause the information
9 in the Presentence Report not to be deemed reliable as the
10 probation officer indicated it was, so I'll overrule objection
11 D.

12 MS. MOORE: Okay. I guess I would just say to that,
13 I believe her testimony was she sold for \$1,000. She bought
14 at a different price, but sold for 1,000.

15 THE COURT: Let me double-check on that. I may have
16 misspoke.

17 On page 41, she was asked: How much was Balt
18 charging you for that ounce?

19 And she answered: It was just \$1,000. And she --
20 referring to the person she was buying it for -- would give me
21 \$100 for getting that.

22 So, I'll overrule that objection.

23 Okay. The objection E has to do with the -- whether
24 the probation officer correctly characterized his move to
25 Mission, Texas, in June 2012 as a flight, and whether his stay

1 in Mission, Texas, while he was there, he was a fugitive.

2 Do you have any comments you want to make on that
3 beyond what's already -- you've already made in writing?

4 MS. MOORE: Not beyond what I've already made, Your
5 Honor.

6 THE COURT: Okay. Well, I'll overrule that
7 objection. I'm satisfied that it was a flight and that he was
8 a fugitive while he was there.

9 Now, one thing the probation officer said about his
10 stay in Mission was that the -- I believe she said a marshal,
11 deputy marshal, visited with him in Mission two years before
12 he was finally arrested, and the government has informed me
13 that the probation officer must have misunderstood something.

14 Mr. Smith, can you tell me what it was you think
15 that the probation officer misunderstood?

16 MR. SMITH: Well, I think it's in -- it's in the
17 filing already, Judge, but from my conversation with Agent
18 Finney, he had been interviewed by the probation officer.
19 Agent Finney was telling her that several years prior to when
20 Baldemar Solis was arrested by the marshals, DEA agents were
21 effecting arrests of another person in that general area, the
22 McAllen/Mission area.

23 They went to a suspected residence of Baldemar
24 Solis. I'm not even sure that they knew that the person that
25 they were looking for was actually Baldemar Solis, but they

1 went to a suspected residence of a person that turned out to
2 be Baldemar Solis or that we thought was Baldemar Solis.

3 They did what's commonly referred to as a
4 knock-and-talk, where you knock on the door without
5 authority -- I mean, without having an arrest warrant or a
6 search warrant or the like, you know, that gives you authority
7 to enter a residence. The door -- nobody answered the door,
8 and they just left.

9 THE COURT: Who is it that did what you just
10 described?

11 MR. SMITH: DEA agents, Your Honor, different DEA
12 agents from -- not anybody related to our case.

13 THE COURT: And who were they -- who was he looking
14 for?

15 MR. SMITH: Well, they had arrested somebody else,
16 another target of their own in that area.

17 THE COURT: I'm trying to find out who he was
18 looking for when he went to the house you're telling me he
19 went to.

20 MR. SMITH: The agents were looking for -- I'm not
21 sure that they had the person identified fully, but it ended
22 up being -- we think it was Baldemar Solis's house in Mission,
23 Texas, and we just -- and that was the gist of it. Nobody --

24 THE COURT: Well, did they know it was Baldemar
25 Solis's house?

1 MR. SMITH: I'm not sure they even knew it was his
2 house, Your Honor, but it just happened to be -- we found out
3 two years later that we think it -- that we actually did
4 stumble across his house, without knowing about it, two years
5 prior to his actual -- approximately two years prior to his
6 actual arrest.

7 THE COURT: Well, did the defendant here come to the
8 door when they went to the house?

9 MR. SMITH: Not two years ago, no. Not two years
10 prior to his arrest, no. Nobody -- nobody answered the door,
11 and no contact was made with Mr. Solis.

12 THE COURT: Well, how did they finally realize that
13 was his house that the DEA agent went to?

14 MR. SMITH: There was some indication that when
15 Baldemar Solis was arrested this time, in September 2016, that
16 he indicated to one of the marshals that was arresting him
17 that he had been present at that house at that time and did
18 not answer the door.

19 THE COURT: When somebody came to the door?

20 MR. SMITH: Yes, but there's no -- there's nothing
21 definitive on that point.

22 THE COURT: Okay. Well, I'm going to overrule the
23 objection. I was puzzled about that, and that explains it,
24 and as I indicated, I find that it was a flight when he left
25 here to go to Mission, and he was a fugitive while he was

1 there.

2 And I'm accepting as a mistake on the part of -- I'm
3 not sure it was a mistake, but the probation officer
4 apparently was incorrect in saying that a government employee
5 had gone to his house and apparently had some discussion with
6 him two years before his final arrest.

7 Do you include in that paragraph E, section E, the
8 complaint about obstruction of justice based on the -- no,
9 it's not in that paragraph.

10 MS. MOORE: No, that's -- that's later, Judge.
11 That's in I.

12 THE COURT: Okay. I'll get to that in a minute
13 then.

14 MS. MOORE: Yes, sir.

15 THE COURT: This objection to paragraph F has to do
16 with what is perceived to be a discrepancy between something
17 Bakhshai said, that she was purchasing directly from Solis one
18 month prior to his becoming a fugitive, and then -- then it
19 goes on to say, the PSR says that she obtained at a rate of
20 4 ounces every three days for two months. Apparently that
21 wasn't taken into account in any of the calculations. Well,
22 it may have been, but it's a rather significant amount.

23 But in reviewing her testimony -- let me find it
24 here a minute. She said that after Wallace and Joey --
25 apparently those were two of the people that cooperated with

1 the defendant in his drug-trafficking activities.

2 After Wallace and Joey got arrested and Solis went
3 on the run, a person by the name of Adam came to her shop and
4 asked her if she was looking for someone to get drugs from,
5 and she looked in the Facebook and saw that Adam had the same
6 last name as Solis's wife, so she figured that they were
7 related and she started going through that person from that
8 point forward with her drug purchases.

9 So apparently she continued and perceived that she
10 was continuing to do business with Solis through Adam after he
11 fled. So I think it's perfectly consistent the -- what
12 apparent inconsistencies that are called to the attention of
13 the Court by F, so I'll overrule F.

14 MS. MOORE: I would like to add something to my
15 complaint about that, Judge, if you don't mind?

16 THE COURT: Okay. That's fine.

17 MS. MOORE: I think that the testimony that she gave
18 doesn't line up with the PSR. The testimony on page 78 talks
19 about six interactions with Solis that basically would amount
20 to a pound and a half, but paragraph 21 of the PSR overstates
21 the amount that she bought from him, I think by making it
22 80 ounces.

23 I think even if you include what she -- I guess the
24 drugs that were bought through Tricomi, she says she bought
25 one-ounce quantities 15 times, so that's 15 ounces. Added to

1 what she says she bought directly from Solis, it still would
2 not add up and --

3 *THE COURT:* What is the quantity discrepancy you're
4 talking about?

5 *MS. MOORE:* Well, I think -- and that testimony, by
6 the way, I think it starts on page 74 and 75. You know, they
7 are hitting Mr. Solis with more -- I guess they are hitting
8 him with more like closer to 5 pounds, when it's not that
9 close. It's -- it's a pound and a half, according to what she
10 said she bought from Solis, and then it's 15 additional ounces
11 according to what she said Tricomi -- that she bought from
12 Tricomi at ounce quantities.

13 *THE COURT:* Mr. Smith, do you have any explanation
14 for what she's talking about?

15 *MR. SMITH:* Well, the way I read the PSR, Your
16 Honor, paragraph 30, the third sentence says, specific amounts
17 of methamphetamine obtained by these, that is, Mr. Solis's
18 customers, are not included or was not included in the
19 guideline calculations to avoid double counting.

20 So I don't think that the amounts attributed to
21 Mr. Solis by people like Ms. Tricomi and Ms. Bakhshai and the
22 other people mentioned in the PSR, Terry Sillers and other
23 people, I don't think they even go into Mr. Solis's base
24 offense level calculation.

25 I think they are offered by the probation officer to

1 corroborate the fact that Mr. Solis was receiving a large
2 amount of methamphetamine from Mr. Alonzo and that Mr. Solis
3 was then -- Mr. Solis and his network of coconspirators were
4 distributing smaller amounts of methamphetamine that are
5 consistent with the amounts of methamphetamine Solis was
6 receiving from Mr. Alonzo.

7 *THE COURT:* Well, there may be some slight
8 inconsistency, but I don't think it's significant, so I'll
9 overrule that objection.

10 Okay. And then -- that was objection F, and now
11 we're going to objection G on page 7 of the objections we
12 received May 1.

13 Do you have anything you want to add to that?

14 *MS. MOORE:* Not beyond what I've already written,
15 Judge.

16 *THE COURT:* Okay. Well, I'm going to overrule that
17 objection. I'm satisfied that what the probation officer said
18 on that is based on reliable information.

19 Okay. Objection H is the one that has caused me
20 some concern, and that's the one I invited the government to
21 have some people here to testify about, if they were
22 available. I think I may have failed to recognize that I
23 was -- is detective -- this is directed to you, Mr. Smith.

24 Is Detective Paul Balson the same person as the
25 Sergeant Balson with the Texas Attorney General's office?

1 MR. SMITH: Yes, Your Honor.

2 THE COURT: Oh, okay. I didn't catch that when
3 I -- okay. Were you able to arrange to have Detective Balson
4 and Detective Gilliam here?

5 MR. SMITH: Detective Balson is here, Your Honor.
6 As I stated in my notice filed yesterday, we're not sure where
7 Mr. Gilliam or Agent Gilliam is now. He's with the -- the
8 best information the government has is that he's a special
9 agent with the Air Force Office of Special Investigations, and
10 we're -- I'm not sure at all where he is.

11 THE COURT: Okay. Well, I didn't receive anything
12 yesterday on that subject. I must have --

13 MR. SMITH: I filed something -- I have a copy for
14 the Court if --

15 THE COURT: Well, that's fine. I just didn't see
16 it, but you do have Detective Balson here?

17 MR. SMITH: Yes, Your Honor. And then also Agent
18 Van Geem is going to be present. He was the one that authored
19 the HSI report. He had a preoperation doctor's appointment
20 scheduled for 8:15 this morning, but he should be here at some
21 point in time late morning.

22 And then also Warren Amburn, he's present. He was a
23 Tarrant County -- at the time, he was a Tarrant County
24 narcotics officer who arrested Campanella (phonetic), who gave
25 us information about Mr. Solis.

1 *THE COURT:* Okay. Why don't you have the persons
2 who are here to testify come forward, and let me administer
3 the oath all at one time.

4 *MR. SMITH:* Okay. And then Agent McCurdy, too,
5 knows some information.

6 *THE COURT:* Okay. Okay. Why don't we administer
7 the oath to all of the witnesses at one time. And my plan is
8 to let the government go forward and make whatever proof they
9 want to make, and, of course, you're entitled to cross-examine
10 the witnesses as we go along this morning.

11 *MS. MOORE:* Thank you, Judge. Would you like for us
12 to be seated?

13 *THE COURT:* Y'all can be seated.

14 Let me -- I know Agent McCurdy. Let me identify who
15 else is here.

16 You're Detective Balson, I take it?

17 *THE WITNESS:* Yes, sir.

18 *THE COURT:* And what is your name?

19 *THE WITNESS:* Warren Amburn.

20 *THE COURT:* Okay. Why don't the three of you raise
21 your right hands to be sworn.

22 (Three (3) witnesses sworn)

23 *THE COURT:* Okay. Who do you want to testify first,
24 Mr. Smith?

25 *MR. SMITH:* Let me -- may I have just a moment, and

1 then figure that out real quick?

2 *THE COURT:* Yes.

3 *(Conferring)*

4 *MR. SMITH:* I call Agent Amburn first.

5 *THE COURT:* Okay. Have these witnesses read
6 paragraph 28 of the Presentence Report, so they will know what
7 the issue is?

8 *MR. SMITH:* No. I think Agent McCurdy has, but the
9 other two individuals have not, so --

10 *THE COURT:* Okay. Okay. Go ahead. Come on up and
11 be seated.

12 *MR. SMITH:* They have reviewed -- well, I'll develop
13 it through testimony.

14 *THE COURT:* Okay. You can proceed, Mr. Smith.

15 **WARREN AMBURN,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **BY MR. SMITH:**

19 Q. Will you please state your name.

20 A. Warren G. Amburn, III.

21 Q. And your current occupation?

22 A. I'm a criminal investigator with the Drug Enforcement
23 Administration.

24 Q. And how long have you been so employed?

25 A. Just more than two years.

1 Q. And prior to that, how were you employed?

2 A. I was a police officer with the City of Bedford,
3 Texas, for more than 10 years.

4 Q. Okay. And what units were you assigned to?

5 A. I was assigned to a rotation at the Tarrant County
6 Narcotics Unit, which was supervised by the Tarrant County
7 District Attorney's Office.

8 Q. Now, I want to direct your attention to 2011 and
9 2012. Will you tell us how you were involved in the drug
10 investigation of Mr. Campanella and Mr. Solis?

11 A. I developed information about Mr. Campanella. I
12 believe in August of 2011, I went to his residence. I
13 observed Arlington police officers at the residence already.
14 I received information that he had been the victim of
15 a -- some kind of robbery where he was zip-tied and assaulted
16 at a park in Arlington. At that time I executed a search
17 warrant at his house and located methamphetamine in the house.

18 Q. And what happened from there?

19 A. Later, I was contacted and learned that
20 Mr. Campanella was part of a larger conspiracy investigation
21 that was occurring involving Mr. Baldemar Solis, and it was
22 indicated to me that Mr. Campanella may be indicted federally
23 with that investigation.

24 Q. I don't think he ever was though, was he?

25 A. No, sir, he was not. I later received word that it

1 was okay for me to go forward with my case. I presented an
2 arrest warrant, and I believe he was arrested in November of
3 2011.

4 Q. Okay. And he -- he got convicted of that drug crime?

5 A. Yes, sir, he did.

6 Q. And how much time did he -- do you know how much of a
7 sentence he got?

8 A. 12 years in state prison.

9 Q. In conjunction with that, did he provide -- did
10 Mr. Campanella provide any information as it relates to
11 Mr. Solis and Sergeant Balson or Detective Balson at the time?

12 A. Yes, sir. Sergeant Balson helped me transport
13 Campanella from the City of Arlington to the City of Bedford
14 jail. Once I got to the Bedford jail, I interviewed
15 Campanella. He indicated to me that he didn't know that
16 Balson was a cop, and I asked him what he meant by that.

17 Q. Let's -- let's go back to that time frame. How were
18 you clothed and how was Detective Balson clothed?

19 A. I was in plain clothes. Detective Balson came out in
20 a marked Arlington police unit and a marked Arlington police
21 uniform.

22 Q. Okay. So was it typical for you at that time to
23 operate in kind of plain clothes?

24 A. Yes, sir, it was.

25 Q. Okay. Go ahead.

1 A. At the jail, I interviewed Campanella. He indicates
2 to me that he didn't know that Balson was a police officer. I
3 asked him what he meant by that, and he explained to me that
4 there was a hit out, put out on Balson, by who he knew as
5 Baldemar.

6 Q. And what happened next with that information?

7 A. I asked him a series of questions related to that, if
8 it was imminent, trying to determine if it was credible, and
9 pursuant to the conclusion of my interview, I contacted
10 Detective Balson, who directed me to his chain of command at
11 the City of Arlington.

12 Q. Okay. And did you have any more interaction with the
13 case or work with that particular topic, the hit or the threat
14 on Detective Balson?

15 A. I had -- I was a part of debriefings that occurred,
16 and I helped facilitate interviews of Campanella for the City
17 of Arlington and other agencies, but beyond that, I didn't
18 have anything to do with the investigation of the threat.

19 MR. SMITH: Okay. May I have just a moment, Your
20 Honor?

21 THE COURT: Yes.

22 (Conferring)

23 MR. SMITH: No further questions, Your Honor.

24 THE COURT: Do you have any questions you want to
25 ask him?

1 MS. MOORE: I do, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. MOORE:

4 Q. Sir, were you part of a debriefing where there was an
5 FBI agent named Special Agent Adam C. Wilson?

6 A. I facilitated that debriefing. I was not present
7 during that debriefing.

8 Q. Well, have you had a chance to read his report?

9 A. Yes, ma'am.

10 Q. Okay. And are you aware that in that report, which
11 is contained in the government's response, that there is a
12 sentence that said, Campanella believed that the name he heard
13 was Balson, but could not be sure?

14 A. I did read that, yes, ma'am.

15 Q. When he saw Officer Balson's nametag, he thought it
16 sounded like the name he had heard Solis talking about?

17 A. Yes, ma'am, I read that.

18 Q. But he said he could not be sure?

19 A. I read that, yes, ma'am.

20 MS. MOORE: Okay. I'll pass the witness.

21 THE COURT: When you were having your discussion
22 with him when he said what you said earlier in response to the
23 direct question, did he have any uncertainty in his mind at
24 that time as to the name?

25 THE WITNESS: No, sir. He was quite surprised that

1 there would be a threat against an officer. He said that was
2 unique and something he was scared of, intimidated by, because
3 of who Mr. Solis was.

4 *THE COURT:* Okay. Do you have any other questions
5 you want to ask him?

6 *MR. SMITH:* No, Your Honor.

7 *THE COURT:* You can step down. Thank you.

8 Okay. Call your next witness.

9 *MR. SMITH:* Government calls Detective Balson.

10 *THE COURT:* Okay. You may proceed.

11 **JOSEPH PAUL BALSON,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 **BY MR. SMITH:**

15 Q. Will you please state your name.

16 A. Joseph Paul Balson.

17 Q. And your current occupation?

18 A. I'm a Sergeant with the Attorney General's Office
19 Fugitive Apprehension Unit.

20 Q. Okay. And in 2011 and '12, how were you employed?

21 A. I was a police officer with the City of Arlington.

22 Q. And what were your duties back then?

23 A. I was on the gang unit.

24 Q. Now, in relation to Mr. Solis in 2011, can you tell
25 us kind of how you got involved with Mr. Solis or some of his

1 coconspirators?

2 A. I was tasked with conducting interviews of people who
3 were in the Arlington City Jail, and I started hearing
4 Mr. Solis's name a lot, and I was finally able to get him
5 identified as someone who was distributing narcotics in
6 Arlington.

7 Q. And based on that information, were you able to do
8 anything?

9 A. I -- I was. I was setting up certain people to
10 assist with the investigation in Arlington, when I was
11 contacted by other law enforcement agencies who was working a
12 larger case on Mr. Solis.

13 Q. And were you involved in any arrest of individuals on
14 the street or this sort of thing in relation to Mr. Solis?

15 A. I was.

16 Q. Who are some of those people? Do you recall?

17 A. Chris Yarbrough, Joey Campanella, I didn't -- at the
18 time of Campanella's arrest, I was not very familiar with him.
19 I just knew his name, and I was just assisting Tarrant County
20 for that one. I can't seem to recall the other names.

21 Q. There were others, right?

22 A. Yeah, there were others.

23 Q. And where -- were you able to identify those people
24 as kind of street-level distributors for Mr. Solis?

25 A. Yes.

1 Q. Okay. All right. Now, at some point in time, did
2 you become aware of a threat against you made by Mr. Solis?

3 A. I did.

4 Q. And approximately when was that?

5 A. When? It was the end of November, sir.

6 Q. Of 2011?

7 A. Yes, sir.

8 Q. And how did that come to light?

9 A. When I assisted Tarrant County Narcotics with
10 apprehending Joey Campanella, I was the only one in uniform.
11 I handcuffed and searched Mr. Campanella and transported him
12 to the city jail, where he was interviewed by Mr. Amburn.

13 Q. Okay. Now, at some point -- at some later point in
14 time, a protective detail was placed at your residence; is
15 that right?

16 A. Yes, sir.

17 Q. And when, approximately, was this?

18 A. I believe it was the beginning of December.

19 Q. Of 2011?

20 A. Yes, sir.

21 Q. So how -- how many days or weeks after the Campanella
22 arrest would you say that that occurred?

23 A. I think it was one or two weeks.

24 Q. Okay. And was there -- to your knowledge, was
25 anybody stopped or detained, sort of near your house, that

1 seemed suspicious?

2 A. Yes, sir. There was a -- there was a vehicle stopped
3 outside of my house, and two individuals were arrested in that
4 incident.

5 Q. And do you know who -- do you know the names of those
6 individuals?

7 A. Justin Bell (phonetic) and Summer Ericson (phonetic).

8 Q. And do you know the -- do you know if Bell or Ericson
9 had any relation to Solis?

10 A. Yes, sir, I did.

11 Q. And what was that relation?

12 A. I was informed by Ms. Ericson that she was friends
13 with Baldemar or Baldemar and Cynthia, and that she was
14 introduced to Mr. Bell at a hotel room by Mr. Solis.

15 Q. And Cynthia who? Cynthia who?

16 A. Cynthia Borrego Solis.

17 Q. So that was Mr. Solis's wife?

18 A. Yes, sir.

19 Q. And do you know what the purpose of that introduction
20 was? Was it a drug --

21 A. She -- all -- Ms. Ericson informed me that she was
22 told Mr. Bell was in town to take care of something for
23 Mr. Solis, but that's all she knew.

24 Q. It was vague?

25 A. Yes. Yes, sir.

1 Q. Okay. All right.

2 MR. SMITH: May I have just a moment, Your Honor?

3 THE COURT: Yes.

4 (Conferring)

5 MR. SMITH: No further questions, Your Honor.

6 THE COURT: Okay. Do you have any questions of this
7 witness?

8 MS. MOORE: Briefly, Your Honor.

9 **CROSS-EXAMINATION**

10 **BY MS. MOORE:**

11 Q. When you learned from Mr. Campanella, or really
12 through Investigator Amburn, that there was a threat
13 potentially on you, you notified your police department,
14 correct?

15 A. Yes, ma'am.

16 Q. And they started investigating, would that be fair to
17 say?

18 A. Yes, ma'am.

19 Q. And they posted security at your house and watched
20 and protected -- protection detail for your family?

21 A. Yes, ma'am.

22 Q. Okay. And you were actively involved in the
23 investigation yourself; is that right?

24 A. No, ma'am.

25 Q. Okay. Well, at some point -- soon after you notified

1 Arlington, Detective Gilliam was leading the investigation,
2 wasn't he?

3 A. Yes, ma'am.

4 Q. And you're the one that reported to Detective Gilliam
5 what Amburn had told you?

6 A. No, ma'am.

7 Q. You're not?

8 A. No, ma'am.

9 Q. Okay. So if there is a report that makes it look
10 that way, that's really not the way it was?

11 A. No, ma'am. I didn't initially report it to Detective
12 Gilliam, my chain of command did, and then we talked about it
13 after that.

14 Q. Okay. So you did talk about it with Detective
15 Gilliam?

16 A. Yes, ma'am.

17 Q. Okay. And you are aware that he went -- that -- I
18 guess there were two African-American men, one called Smiley
19 and one called Quarterback, that were alleged to have been the
20 people that were going to hit you, so to speak?

21 A. Yes, ma'am.

22 Q. And you're aware that they went to the residence of
23 Smiley -- and I believe his correct name is last name Phiifer?
24 You're aware of that, aren't you?

25 A. Yes, ma'am.

1 Q. And you are aware that they went for the purpose of
2 looking for this hit list?

3 A. Yes, ma'am.

4 Q. And you're aware that they did not find any hit list?

5 A. I'm not sure about that. I was not present. I'm not
6 exactly sure what was found. I was not allowed to communicate
7 or know exactly what was found at the scene.

8 Q. Okay. Well, I mean, that was back in 2011 and here
9 we are in 2017. Have you ever been informed that a hit list
10 with your name was found?

11 THE COURT: I think he just got through saying he
12 didn't know what was found.

13 THE WITNESS: Yes, sir.

14 MS. MOORE: I didn't know if currently, Judge. I
15 knew back then --

16 THE COURT: Well, he apparently has said that.

17 Q (BY MS. MOORE) Okay. All right. So you are aware that
18 this information was presented, I guess, for prosecution to
19 the District Attorney's Office in Tarrant County?

20 A. No, ma'am.

21 Q. Okay. Well, nonetheless, you know that Mr. Solis has
22 never been arrested, charged, or accused of murder for hire?

23 A. Are you asking if I'm aware of that?

24 Q. Yes.

25 A. Well, he has been accused of it, but he's never been

1 charged with it.

2 Q. He's never been arrested for it either?

3 A. No, ma'am.

4 Q. Or solicitation of capital murder, or anything
5 involving you as a victim; is that correct?

6 A. Not to my knowledge.

7 Q. Okay. Now, are you aware, sir, that in the
8 information provided to Detective Gilliam, it was told to
9 him -- and I wish he was here today, but it was told to
10 him --

11 THE COURT: I think we're going to have -- isn't he
12 going to be here?

13 MR. SMITH: No. No, Your Honor. The government
14 doesn't -- like I said, the government doesn't know where
15 Detective Gilliam is. He's a special agent --

16 THE COURT: Oh, I thought you said, ultimately, he
17 would be here.

18 MR. SMITH: No. We're going to have, hopefully,
19 Agent Van Geem come, but I think Agent McCurdy can answer most
20 of what Van Geem would talk about, and that would be the last
21 witness on this topic. I think Agent McCurdy can clarify some
22 things, too.

23 THE COURT: Okay. Go ahead.

24 Q (BY MS. MOORE) So you're aware that Detective Gilliam
25 was told that Baldemar Solis -- who by the way is a Hispanic

1 man, correct?

2 A. I'm assuming, yes, ma'am.

3 Q. Okay. That Mr. Solis had recruited two
4 African-American men, that's Smiley and Quarterback, to, I
5 guess, hit you, so to speak, because of your investigation
6 into the Aryan Brotherhood's criminal activity?

7 A. Is that a question?

8 Q. Yes, sir.

9 A. Yes, ma'am.

10 Q. And that's what Detective Gilliam wrote in his report
11 that is filed in this case; is that true?

12 A. Yes, ma'am.

13 Q. Okay. So does it make sense to you that a Mexican
14 man would hire two black men to harm a police officer for
15 criminal activity of white supremacists?

16 A. Yes, ma'am.

17 Q. Okay?

18 A. In this case, it does.

19 Q. Now, after you left, sir -- oh, and so when -- when
20 the police didn't find any evidence of this so-called hit, the
21 Arlington police didn't find any evidence of a hit list,
22 they --

23 *THE COURT:* Is that a correct statement, that they
24 found no evidence of a hit list?

25 *THE WITNESS:* As far as I know, sir.

1 THE COURT: Okay.

2 Q (BY MS. MOORE) Or I should say, to be perfectly correct,
3 a hit list with your name on it, not a Paul or a Balson. They
4 stopped the protection detail on your home, didn't they?

5 A. Yes, ma'am.

6 Q. They withdrew protection from, I guess, watching
7 after your family, didn't they?

8 A. Yes, ma'am.

9 Q. And you became very upset, didn't you?

10 A. Yes, ma'am.

11 Q. And tell us when you left the Arlington Police
12 Department?

13 A. In September of 2012.

14 Q. And were you -- did you leave voluntarily or --

15 A. Yes, ma'am.

16 Q. Okay. So, basically, it was because of this incident
17 that you left the Arlington Police Department?

18 A. No, ma'am.

19 Q. Okay. And you were critical in a newspaper article
20 to the press, I guess to the Fort Worth Weekly, on a story
21 that was written about it?

22 A. Among many others, yes, ma'am.

23 Q. And you condemned Arlington Police Department and the
24 investigation; is that right?

25 A. I don't know if I ever used those words, ma'am.

1 Q. Okay. You were critical?

2 A. Critical, yes, ma'am.

3 Q. And put out enough that you left the police
4 department?

5 A. Yes, ma'am.

6 Q. And then ultimately you went to the Attorney
7 General's Office?

8 A. Yes, ma'am.

9 Q. And you continued in your pursuit of Baldemar Solis,
10 didn't you?

11 A. No, ma'am.

12 Q. Did you participate, sir, in an interview
13 with -- let's see.

14 MS. MOORE: May I have a second, Your Honor?

15 THE COURT: Yes.

16 (Pause in Proceedings)

17 Q (BY MS. MOORE) When you went to the Attorney General's
18 Office, did you participate in an interview in November of
19 2012 with a source -- I guess we don't really have that
20 person's name -- and in that interview did you show him a
21 flow -- some kind of handwritten flow chart drawn by another
22 Smiley?

23 A. I don't remember that. I might have, but I don't --
24 I've done a lot of interviews and I don't remember.

25 Q. Do you remember any kind of a flow chart?

1 A. Yes, ma'am.

2 Q. So you were continuing to investigate Baldemar Solis,
3 even though you left Arlington and no evidence was ever --

4 A. No, ma'am.

5 Q. -- found regarding this threat?

6 A. No, ma'am.

7 Q. And in the interview with that source, that source
8 didn't know anything about any of this, did he?

9 A. I -- I don't know what you're talking about, ma'am.

10 Q. Okay. Well, we'll have to figure out who authored
11 the report that's attached to the government's response, but
12 you're saying you don't recall it?

13 THE COURT: Do you have any other questions, instead
14 of going over the same thing over and over again?

15 Q (BY MS. MOORE) But you don't recall it?

16 THE COURT: He said he didn't recall it.

17 MS. MOORE: Okay. Then that's all I have, Your
18 Honor.

19 THE COURT: Okay. Do you have any further
20 questions?

21 MR. SMITH: Just briefly, Your Honor.

22 **REDIRECT EXAMINATION**

23 **BY MR. SMITH:**

24 Q. Why would it not be strange from your experience that
25 Baldemar Solis would hire two black men to do this sort of a

1 thing?

2 A. Because those two particular black men were known to
3 have a proclivity for violence, and it would be an easy way to
4 throw the authorities off track of the Aryan Brotherhood being
5 behind that, and it's something they wouldn't have to do when
6 they could get these two black men to do it for them.

7 Q. Okay. Now, as far as you being upset about the
8 protective detail being pulled by Arlington, how did -- how
9 did you feel at the time in November 2011 and December 2011?
10 How did you feel about what was going on? Did you perceive
11 the threat as a real threat?

12 A. Yes, sir.

13 Q. And why did you perceive it as such?

14 A. There was a lot of information coming in that, in my
15 opinion, wasn't investigated to its fullest potential.

16 Q. And part of that, I suppose -- I guess -- seems like
17 the icing on the cake, so to speak, was when those two
18 individuals were detained outside of your residence; is that
19 right?

20 A. Yes, sir, arrested.

21 Q. And they had some relation to -- back to Baldemar
22 Solis through his wife?

23 A. Yes, sir.

24 Q. All right.

25 MR. SMITH: No further questions, Your Honor.

1 THE COURT: I think you said earlier that Ericson
2 told someone that Bell was there to perform -- to do
3 something. What did Ericson say Bell was there to do?

4 THE WITNESS: Sir, all she said was that he was in
5 town to do something for Baldemar, but she didn't elaborate on
6 what that was, sir.

7 THE COURT: Did she or Bell explain why they were in
8 front of your house?

9 THE WITNESS: Bell -- or excuse me, Summer Ericson
10 told me, but it was -- nothing else was pursued on that. Yes,
11 sir, Ms. Ericson did tell me.

12 THE COURT: And what were you told?

13 THE WITNESS: She told me that they, on that night,
14 they were on their way to Mr. Solis's house -- or excuse me,
15 another associate's house to buy methamphetamines, and they
16 had been to this house numerous times, and for some reason
17 Mr. Bell pulled into my neighborhood and got off the phone
18 with -- got on the phone with someone and said, I'm looking at
19 it right now, and that's when the officers saw him driving by
20 my house four times. She then said that when officers
21 initiated a traffic stop, he said, on the phone, this place
22 is too hot right now, we can't do it, and he got off the
23 phone.

24 But she had no knowledge of why he would pull into
25 that neighborhood all the sudden because they -- they knew

1 exactly where they were going, and she didn't have any idea
2 why he would pull into that neighborhood.

3 *THE COURT:* Where did she say they were going?

4 *THE WITNESS:* To a house approximately two miles
5 away to buy narcotics.

6 *THE COURT:* And what did that transaction have to do
7 with the defendant Mr. Solis?

8 *THE WITNESS:* That was one of Mr. Solis's working
9 associates.

10 *THE COURT:* That they were going to buy narcotics
11 from?

12 *THE WITNESS:* Yes, sir.

13 *THE COURT:* Do you know who that person was?

14 *THE WITNESS:* Joey Rodriguez.

15 *THE COURT:* And does he have a nickname?

16 *THE WITNESS:* I believe he was called Mexican
17 Joey.

18 *THE COURT:* Okay. Did you have anything else you
19 wanted to ask him?

20 *MS. MOORE:* Briefly.

21 **RECROSS-EXAMINATION**

22 **BY MS. MOORE:**

23 Q. When this Mr. Bell and Ms. Ericson were stopped, did
24 you say they were arrested?

25 A. Yes, ma'am.

1 Q. Did they have any weapons in the vehicle?

2 A. I don't think so.

3 MS. MOORE: That's all I have, Your Honor.

4 THE COURT: Okay. Thank you. You can step down.

5 MR. SMITH: Government calls Agent McCurdy.

6 THE COURT: Okay.

7 MR. SMITH: I'm handing to the Court the document
8 the government filed yesterday afternoon.

9 THE COURT: Okay.

10 MR. SMITH: And it has attached as Exhibit 1, the
11 sketch requested by the Court, the photograph of the -- I
12 should say a photocopy of the photograph of the sketch
13 requested by the Court.

14 And then Exhibit 2 is the affidavit for the 925
15 Tapley Street address.

16 THE COURT: Okay. I have not seen this
17 document. It must have been filed late -- well, it was filed
18 at 3:44, I should have seen it, but go ahead.

19 Did you want to mark it as an exhibit or just make
20 note that the record contains it?

21 MR. SMITH: It's part of the record, so I'll just
22 refer to it as part of the record, Your Honor.

23 THE COURT: Okay.

24 **MIKE MCCURDY,**

25 having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q. Agent McCurdy, will you please state your name.

A. Mike McCurdy.

Q. And your current occupation?

A. I'm a Special Agent with Homeland Security Investigations.

Q. And you're actually one of the -- you're familiar with this case; is that right?

A. Yes, sir.

Q. Now, I know Agent Van Geem isn't here, but you're familiar with and you talked to Agent Van Geem about the report he authored in I believe it was 2012; is that right?

A. Yes, sir. I believe that report was from an interview in November of 2012.

Q. Okay. Can you tell us a little bit -- and explain with that interview, if you will -- I'm sorry.

Explain to us the purpose of -- or what happened with that paragraph on page 4 that's of relevance, of note here, and explain to us that in conjunction with this diagram that's part of the record.

A. Yes, sir. Regarding the diagram, let me start there, if I could, to give it a little background of my understanding of the diagram.

At some point -- and I can't give you an exact

1 date -- an individual walks into the Arlington Police
2 Department and tells the officers he winds up speaking with
3 that he goes by the nickname Smiley, but he is not the same
4 Smiley as the person who is involved in this threat against
5 Officer Balson, now Sergeant Balson.

6 He goes on to explain that he's not the same Smiley.
7 He has information and he wants to relay that information to
8 the police department to make sure that they understand that
9 he is not involved in the threat. In the subsequent
10 interview, he drew out this diagram, so that's how this
11 diagram came to exist.

12 Q. Okay. So what is going on with the diagram as far as
13 some of the names that we all know here, Carlos, Smiley, QB,
14 and then missed on the contract for Paul, the cop out of Fort
15 Worth, contract pays \$45,000. Can you just kind of explain
16 that for us?

17 A. Yes, sir. Just to touch on all of the information
18 that you just spoke about, see in the -- what I'm going to
19 call the upper left quadrant, upper portion of the page, just
20 to the left of center, the name Baldemar, which was the
21 nickname of Baldemar Solis.

22 Up to the left of that are the names Smiley and
23 Quarterback, the two individuals who were allegedly contracted
24 or were involved in the threat on Mr. Balson -- Officer
25 Balson, excuse me.

1 And if you'll look to the right, the other thing you
2 mentioned is the note about the contract. It describes
3 Officer Balson as a cop in Fort Worth, when, in fact, we know
4 he's an Arlington police officer, and then the amount of
5 the -- the \$45,000 was the alleged amount of the contract to
6 hit him.

7 Q. And how did this person, this Smiley, come to have
8 this information?

9 A. I'm not entirely clear on that. Several people wound
10 up with the same information. Two others were referenced in
11 Mr. -- in Detective Gilliam's report, referred to by the
12 pseudonyms Smith and Brown, so apparently there were quite a
13 few people who were aware of the threat.

14 Q. Okay. Now, let's talk about Detective Gilliam's
15 report a little bit, and you've read paragraph 28 of the PSR.
16 What -- there seems to be several lists out there that seem to
17 be causing some confusion. Can you explain that for us?

18 A. Yes, sir. So in -- in the report authored by Special
19 Agent Van Geem, there is a reference to a hit list, a
20 smash-on-sight list, that happens to have 16 names on it. In
21 Detective Gilliam's Arlington report about the threat on
22 Officer Balson, there is a mention of a hit list that
23 allegedly has 16 names on it.

24 Our investigation indicates that that's just
25 coincidence, that those are -- they are both hit lists, smash

1 lists, but they are unrelated and they just both to happen to
2 have 16 names.

3 Q. Okay. And what list was the name Paul on, if any?

4 A. That's unclear to me at this point, other than the
5 fact that -- this diagram, not necessarily the list, but the
6 name is obviously on this diagram that the Court has, but a
7 list, I don't know.

8 Q. Okay. All right. And the Paul we all believe is
9 Paul for Sergeant Balson, right?

10 A. Yes, sir.

11 MR. SMITH: Okay. No further questions, Your Honor.

12 THE COURT: Who is the author? Is this Gilliam that
13 signed this affidavit? No, it's Garcia.

14 THE WITNESS: Yes, sir, I believe that's correct.
15 The affidavit for the search warrant on Tapley?

16 THE COURT: Yes.

17 THE WITNESS: Yes, sir, I believe it said Detective
18 Garcia.

19 THE COURT: How did he get involved in the inquiry
20 about the threat to kill Detective Balson?

21 THE WITNESS: Your Honor, I will say that I wasn't
22 personally involved at that time. However, in general, it's
23 not uncommon for several investigators to assist the lead
24 investigator, so that my assumption is that he was helping out
25 Detective Gilliam.

1 THE COURT: Okay. Do you have some questions?

2 MS. MOORE: I do, Your Honor, briefly.

3 **CROSS-EXAMINATION**

4 **BY MS. MOORE:**

5 Q. So are you the author of the Homeland Security report
6 that is attached to Mr. Smith's response --

7 A. No, ma'am, that was Special Agent Van Geem. I'm
8 sorry, I cut you off. Could I make sure that I understood the
9 question?

10 Q. I was trying to figure out who the author of that
11 report is, of the Homeland Security report.

12 A. Special Agent Van Geem.

13 Q. Okay. And in that report, it says Sergeant Balson is
14 the one that showed this diagram to this other Smiley that
15 they were interviewing; is that right?

16 A. I have read that report, and that is my recollection
17 that that's what the report says.

18 Q. And it says he was present, and not only present, but
19 also showed him the diagram?

20 A. Yes, ma'am, obviously had to be present to show a
21 diagram.

22 Q. And this would have been in -- on November the 20th
23 of 2012, correct?

24 A. I recall November of 2012. I don't have the report
25 in front of me, and I don't recall the exact date.

1 Q. That's the date on the report.

2 A. Okay.

3 Q. And that is over -- a little over a year after
4 Detective Gilliam had investigated this allegation?

5 A. I would say it's a little under a year after the
6 investigation began.

7 Q. Okay.

8 A. So I would say the Arlington Police Department
9 investigation of the threat began in approximately December of
10 2011.

11 Q. You are correct. You are absolutely correct. It is
12 a little under a year. I stand corrected on that.

13 So in trying to understand this, I guess it first
14 came out through Detective Auburn (sic) on -- from the
15 interview of Campanella that, oh, that's the name Campanella
16 claims he heard, and it was Balson, and then he says, but he's
17 not sure about it.

18 A. I assume you're referring to Special Agent Amburn,
19 then Detective Amburn?

20 Q. Yes.

21 A. It's my understanding from speaking to Special Agent
22 Amburn, and he also testified to that today, that his
23 recollection is -- Mr. Campanella was certain. While -- I've
24 read that report, the FBI report on Campanella, and there does
25 seem to be some equivocation, but speaking with Special Agent

1 Amburn, there was no equivocation.

2 Q. Okay. But I'm trying to get the time line of this.

3 THE COURT: Well, it would be better if you didn't
4 make argument as you go along. Just ask questions instead of
5 making arguments.

6 Q (BY MS. MOORE) Okay. Is the time line that this first
7 came out through Campanella?

8 A. That's my understanding.

9 Q. Okay. And --

10 A. However, if I could add, it's also my understanding
11 that several pieces of information came to light at
12 approximately the same time, in a relatively short period of
13 time.

14 Q. So after Campanella, then Detective Balson reports it
15 to Arlington and Detective Gilliam gets involved?

16 THE COURT: You say several other people reported
17 the same information?

18 THE WITNESS: Detective Gilliam spoke with two other
19 individuals. So we have Campanella, who spoke with Amburn,
20 two other individuals interviewed by Detective Gilliam, as
21 well as the information from the gentleman who drew this flow
22 chart, so -- so I would say four, Your Honor.

23 THE COURT: And did all of those people indicate
24 that the defendant here had arranged to pay somebody \$45,000
25 to kill the detective?

1 THE WITNESS: I don't know that they all had all of
2 that information, but some variation of that information
3 that -- it's my recollection that all four indicated that
4 Mr. Solis was involved in a threat on Sergeant Balson.

5 THE COURT: Okay.

6 Q (BY MS. MOORE) And that's what I'm trying to get at,
7 okay.

8 THE COURT: Okay. Well, he said it now.

9 Q (BY MS. MOORE) It's all over the map. On the time line,
10 it first comes out through Campanella and then we --

11 THE COURT: Well, let's don't argue. If you have
12 some more questions, let's ask a question.

13 MS. MOORE: These are my questions.

14 Q (BY MS. MOORE) And then the next thing in the time line
15 is Detective Gilliam interviewing someone with the pseudonym
16 of --

17 THE COURT: I think you're summarizing. Just ask a
18 question, if you have a question.

19 Q (BY MS. MOORE) Well, Brown does not -- does
20 Brown -- okay. Campanella never says anything about \$45,000,
21 does he?

22 A. Not that I recall.

23 Q. Okay. And so when -- when Brown -- let me make sure
24 I've got this right.

25 THE COURT: Why don't we take a recess while you're

1 getting all that right, and while you're getting it right, why
2 don't you boil it down into questions instead of making
3 arguments as you go along.

4 MS. MOORE: Okay.

5 THE COURT: We'll take a 15-minute recess.

6 COURT SECURITY OFFICER: All rise.

7 (Recess)

8 COURT SECURITY OFFICER: All rise.

9 (Judge enters)

10 COURT SECURITY OFFICER: Please be seated.

11 THE COURT: Okay. You may proceed, Ms. Moore.

12 MS. MOORE: Okay. Thank you, Judge.

13 Q (BY MS. MOORE) Detective Gilliam's report indicates that
14 it was Detective Balson who provided him with the pseudonym
15 names of witnesses White and Brown; is that correct?

16 A. I don't recall. I do have the report with me, if you
17 would like me to look.

18 Q. Okay. You can look at the first sentence of the
19 second paragraph.

20 THE COURT: If you have that, just read it aloud, if
21 you want the record to know what it says.

22 MS. MOORE: Detective Balson informed me that he
23 also received information from fully-identified witnesses John
24 Brown, pseudonym, and Mark White, pseudonym, regarding the
25 capital murder conspiracy against him.

1 THE COURT: Okay. She's read it, so go on now to
2 something else.

3 Q (BY MS. MOORE) Okay. Now, his report indicates that
4 witness Brown -- witness Brown says --

5 THE COURT: If you want to read from the report, go
6 ahead and read from it. Let's don't ask him what it says.

7 MS. MOORE: Okay. I discovered that Brown and White
8 reported that they observed the hit list in the possession of
9 Phiifer/Smiley while he operated a red Chevy pickup truck.

10 THE COURT: Are you referring to the report that the
11 government filed as an attachment to one of the documents?

12 MS. MOORE: I am, Your Honor. It's --

13 THE COURT: I've read that, so you don't need to ask
14 him what it says. I've read it.

15 Q (BY MS. MOORE) Okay. So, at the conclusion of this
16 investigation, when they searched the red pickup truck in
17 question and the home where the red pickup truck was, they
18 never found any hit list with the name Paul on it or the name
19 Balson on it; isn't that true?

20 A. That's my understanding.

21 Q. Do you know what this other Smiley's correct name is?

22 A. No, ma'am.

23 Q. Did you interview him?

24 A. No, ma'am.

25 Q. Okay. Smash-on-sight is not a murder list, is it?

1 A. I don't know that I can answer that.

2 MS. MOORE: That's all I have, Your Honor.

3 THE COURT: Let me ask you a couple of questions,
4 maybe more than that.

5 THE WITNESS: Yes, sir.

6 THE COURT: One of the items attached to this
7 document that the government filed yesterday is a copy of the
8 evidentiary search warrant affidavit that I asked you about a
9 minute ago that was signed by a Detective R. Garcia.

10 THE WITNESS: Yes, sir.

11 THE COURT: At the bottom of the first page of that,
12 it discusses what a witness had said, and the last two or
13 three lines at the bottom of the page are the -- it says, on
14 or about November 29, 2011, a conspiracy to commit capital
15 murder was committed in Arlington, Tarrant County, Texas. The
16 Arlington Police Department was notified by the Tarrant County
17 Narcotics Unit that the threat had been made to kill Paul
18 Balson, who is a police officer in Arlington, Texas.

19 It says, the information was obtained from a witness
20 that had been fully identified. The witness was present
21 during a conversation that Baldemar Solis was having with
22 Artis (phonetic) Williams and Jacob Phiifer. Phiifer said he
23 would kill Paul Balson and his family. Solis said that he
24 wanted Paul Balson to be killed due to the arrest of several
25 Aryan Brotherhood members and seizures of drugs.

1 Who is that person that that refers to as being the
2 person who had been identified?

3 *THE WITNESS:* Your Honor, I believe that witness
4 would be Joey Campanella, the witness that Agent Amburn
5 testified about.

6 *THE COURT:* Well, it attributes a lot more to
7 Campanella than Agent Amburn attributed to him.

8 Do you have an explanation for that?

9 *THE WITNESS:* No, sir. I believe -- I believe that
10 would refer to Campanella, that paragraph.

11 *THE COURT:* Okay. Have you ever heard anybody say
12 that there was a person who heard the conversation that
13 referred to, that I just read?

14 *THE WITNESS:* I'm sorry, Your Honor, I don't think I
15 understand the question.

16 *THE COURT:* Well, I just read a conversation -- a
17 witness who said he was present during a conversation, and I
18 read what the alleged conversation was. It's a conversation
19 that Baldemar Solis was having with Artis Williams and Jacob
20 Phifer. Phifer said he would kill Paul Balson and his family.
21 Solis said that he wanted Paul Balson to be killed due the
22 arrest of several Aryan Brotherhood members and seizures of
23 drugs.

24 Have you ever heard anyone say that Mr. Campanella
25 described such a conversation?

1 THE WITNESS: I don't know that I've heard it in
2 that detail, Your Honor.

3 THE COURT: Well, have you heard anything
4 Mr. Campanella said, other than what I've heard today, and
5 that is that he saw -- identified Paul Balson as somebody that
6 somebody had made a threat against?

7 THE WITNESS: I'm sorry, repeat that last part. I
8 want to make sure I understand.

9 THE COURT: Mr. Smith, maybe you can help me. I've
10 heard from the man who talked to Campanella today, and he
11 didn't say anything about Campanella saying anything about a
12 conversation like this.

13 Can you explain that, Mr. Smith?

14 MR. SMITH: No, Your Honor. I think what Agent
15 McCurdy is having difficulty with is that --

16 THE COURT: No, I'm talking about answering my
17 question. We heard what Mr. Amburn said about what
18 Mr. Campanella said, and he didn't say anything like what's in
19 this report or the affidavit. I'm trying to find out if you
20 have an explanation for the discrepancy.

21 MR. SMITH: No, I don't -- I don't know, Your Honor.

22 THE COURT: Okay. That's fine.

23 And then that same affidavit goes on at the top of
24 the next page and says what another witness who had been fully
25 identified said.

1 Do you know who that other witness is that that
2 refers to?

3 *THE WITNESS:* Your Honor, I believe -- and I need to
4 double-check the date -- but based on that date, I believe
5 that would have referred to Brown or White, one of the two
6 people interviewed that's referenced in Detective Gilliam's
7 report.

8 *THE COURT:* Do you know if there's any notes of an
9 interview where that witness said whatever that says -- what
10 the affidavit says he said?

11 *THE WITNESS:* Let me find that page of the report,
12 Your Honor.

13 *THE COURT:* Okay. It gives a report number there.

14 *THE WITNESS:* Yes, Your Honor. That's the Arlington
15 Police Department Report 2011-00075695. I'm just trying to
16 find the appropriate page of the narrative.

17 Yes, Your Honor. So I believe that that next
18 paragraph that you mentioned -- so it's the paragraph at the
19 top of the second page of the affidavit for the search warrant
20 on Tapley -- is consistent with Detective Gilliam's typed
21 notes that are included in that report, and the copy that I'm
22 looking at shows that it's page 1 of 3 dated December 2nd,
23 2011.

24 *THE COURT:* Okay. Let me glance at that.

25 *(Pause in Proceedings)*

1 *THE COURT:* Okay.

2 *THE WITNESS:* Your Honor, if I could draw your
3 attention to the first paragraph in the section that's dated
4 December 2nd, 2011, there's a line that reads: Investigator
5 Amburn identified Solis, Phifer a/k/a Smiley, and Egypt as the
6 suspects in the capital murder conspiracy.

7 *THE COURT:* I see what you're talking about. Are
8 you interpreting that to mean that the information at the
9 bottom of the first page of the search warrant affidavit was
10 based on something that Investigator Amburn had learned?

11 *THE WITNESS:* Yes, sir. Based on my reading, they
12 appear to be consistent.

13 *THE COURT:* Okay. Well, maybe we can ask -- is
14 Amburn still here?

15 *MR. SMITH:* Yes, Your Honor.

16 *THE COURT:* Okay. Well, we can ask him about that.
17 Okay. Thank you.

18 Did you have anything else you wanted to ask him?

19 *MS. MOORE:* No, Your Honor.

20 *THE COURT:* Okay. You can step down. Thank you.

21 *THE WITNESS:* Yes, sir.

22 *THE COURT:* Did you have another witness you wanted
23 to call? You said something about somebody would be showing
24 up.

25 *MR. SMITH:* Agent Van Geem is here now, Your Honor,

1 but I think -- I think we've exhausted that information. I
2 don't think he would add --

3 *THE COURT:* Pardon?

4 *MR. SMITH:* I think we've exhausted that source of
5 information. I think Agent McCurdy covered it. I don't think
6 Van Geem would add anything more.

7 *THE COURT:* Okay. Well, let me ask witness Amburn a
8 question or two, if he could come back up.

9 **WARREN AMBURN,**
10 having been previously duly sworn, further testified as
11 follows:

12 **EXAMINATION BY THE COURT**

13 *THE COURT:* You've been in the courtroom when the --
14 McClung (sic) testified, so you've heard what he said, and I'm
15 trying to find out who it was discussed, with a witness, the
16 information that's at the bottom of the first page of an
17 evidentiary search warrant affidavit, and what it says is
18 that:

19 On or about November 29, 2011, a conspiracy to
20 commit capital murder was committed in Arlington, Tarrant
21 County, Texas. The Arlington Police Department was notified
22 by Tarrant County Narcotics Unit that the threat had been made
23 to kill Paul Balson, who is a police officer in Arlington,
24 Texas.

25 The information was obtained from a witness that has

1 been fully identified. The witness was present during a
2 conversation that Baldemar Solis was having with Artis
3 Williams and Jacob Phifer. Phifer said he would kill Paul
4 Balson and his family. Solis said he wanted Paul Balson to be
5 killed due to the arrest of several Aryan Brotherhood members
6 and seizures of drugs.

7 The witness who just testified said that he believed
8 that was information that you provided based on what
9 Amburn told -- what -- let me get my names straightened
10 out -- Campanella told you.

11 Is that based on what Campanella told you?

12 *THE WITNESS:* No, sir. What happened is I obtained
13 the information from Campanella, and I notified Arlington.
14 Arlington facilitated their own interview. They sent a
15 homicide detective and a sergeant over the gang unit to
16 interview Campanella. I facilitated that interview. I did
17 not participate in that interview. That information was not
18 derived from me.

19 *THE COURT:* Okay. And do you know who that
20 detective was that interviewed Campanella?

21 *THE WITNESS:* The first name was Caleb (phonetic).
22 He was a homicide detective, and, I'm sorry, I do not know his
23 last name.

24 *THE COURT:* Okay. Have you seen the results of that
25 interview, any report or anything on it?

1 THE WITNESS: No, sir, I have not.

2 THE COURT: Okay. Thank you. That's all I wanted
3 to ask you. You can step down.

4 Mr. Smith, do we have the results of that interview?

5 MR. SMITH: No, Your Honor.

6 THE COURT: Do you know why?

7 MR. SMITH: I mean, I -- I'm guessing it's with
8 Arlington PD is my best guess on that.

9 THE COURT: Okay. Okay. Have you offered all the
10 evidence you want to offer?

11 MR. SMITH: Yes, Your Honor.

12 THE COURT: Okay. Do you have any evidence you want
13 to offer?

14 MS. MOORE: Not on that objection, Your Honor.

15 THE COURT: Okay. Well, there's a lot of smoke, but
16 not much fire. I'm going to have to sustain that objection.
17 I'm not critical of the probation officer for saying what the
18 probation officer said in the Presentence Report because the
19 smoke supports what she said, but there's not -- not enough
20 credible testimony or evidence to reach the conclusion that
21 the defendants actually did take actions that would lead to
22 harm to Detective Balson, if the action he wanted to make had
23 been pursued, so the two-level increase based on that will be
24 deducted.

25 Okay. Let's go on to the objections. The next is

1 the objection to the obstruction of justice enhancement, and
2 I've already indicated my tentative conclusion is that there
3 should not have been such an enhancement based on his failure
4 to comply with the Court's order that he reimburse the
5 judiciary, and unless somebody has something else they want to
6 say on that subject, that will be my ruling on that, that
7 there won't be a two-level increase based on that, though I
8 will take that into account in determining what sentence to
9 impose.

10 And I've already expressed my tentative conclusion
11 on the objection to the aggravating role and that it's without
12 merit.

13 Do you have any comments you want to make on that?

14 *MS. MOORE:* Nothing in addition to what I've
15 written, Your Honor.

16 *THE COURT:* Okay. Well, I'll overrule that
17 objection.

18 Okay. There being no further objections to the
19 Presentence Report or the addendum -- have I covered all the
20 objections in the addendum as I've gone along?

21 *MS. MOORE:* You have, Your Honor.

22 *THE COURT:* There being no further objections to the
23 Presentence Report or the addendum, the Court adopts as the
24 fact findings of the Court the facts set forth in the
25 Presentence Report as modified or supplemented by any facts

1 expressed in the addendum and any rulings I've made from the
2 bench, as amplified in my tentative conclusion orders.

3 The Court adopts as the conclusions of the Court the
4 conclusions expressed in the Presentence Report as modified or
5 supplemented by any expressed in the addendum, and any I've
6 expressed from the bench, or any of the tentative conclusion
7 orders that -- either of the tentative conclusion orders.

8 Okay. I'll have to get some new calculations.

9 PROBATION: Your Honor, the calculations don't
10 change because his total offense level was above --

11 THE COURT: Come up here and tell me what you're
12 saying from there.

13 (*Off-the-record bench conference with probation*)

14 THE COURT: Okay. What she's telling me, if we take
15 off the two levels for obstruction of justice and the two
16 levels for use of violence, you still end up with an offense
17 level that's above 43, and in the guidelines you then go to
18 43, so it doesn't change anything.

19 MR. SMITH: Yes, Your Honor. I just want to put on
20 the record that the total offense level, as I read it, would
21 be a 46, and by operation of the guidelines, the max he can
22 have is a 43.

23 THE COURT: The adjusted offense level would be 46?

24 MR. SMITH: Yes, Your Honor.

25 THE COURT: Okay. Thank you.

1 *(Off-the-record bench conference)*

2 THE COURT: Okay. Apparently that doesn't change
3 anything as far as the ultimate guideline calculations are
4 concerned.

5 So the Court concludes that the total offense level
6 is 43; that the Criminal History Category is IV; that the
7 advisory guideline imprisonment range is life imprisonment;
8 that the supervised release range is 8 years; that the fine
9 range is \$25,000 to \$8 million; and that a special assessment
10 of \$100 is mandatory.

11 Okay. You can make whatever statement you would
12 like to make on behalf of your client at this time, Ms. Moore.

13 MS. MOORE: Judge, I want to actually call a
14 witness, if that's okay.

15 THE COURT: You want to what?

16 MS. MOORE: I would like to call a young lady that
17 would like to speak on --

18 THE COURT: Okay. That's fine.

19 MS. MOORE: I would call Iris Garcia.

20 THE COURT: You want her to speak from the
21 microphone?

22 MS. MOORE: Yes, sir.

23 THE COURT: That's fine. She can come up and speak
24 from the microphone.

25 Come up to the microphone and say what your name is

1 and what city you live in.

2 MS. IRIS GARCIA: Iris Renee Garcia, Mission, Texas.

3 THE COURT: Okay. Go ahead.

4 MS. IRIS GARCIA: Dear Judge McBryde: This letter
5 is to express my confidence in and respect for Baldemar,
6 Baldemar Solis, Jr.

7 I am Iris Garcia, niece of Mr. Solis. I am a recent
8 high school graduate from Mission High School, and I plan to
9 further my education at Texas A&M International with a
10 Bachelor's in Business Administration and Management with a
11 minor in criminal justice.

12 I have had the pleasure of knowing Baldemar Solis
13 all of my life. Mr. Solis is very generous with his time. He
14 is the most caring, nicest, intelligent man I know, and call
15 him my second father.

16 I don't have my father by my side, however, having
17 him as an uncle was like having him as my father figure. I
18 grew up around him, and he was the one that taught me how to
19 throw a ball, how to ride a bike. He was the one that taught
20 me how to throw a ball, how to ride a bike, he taught me
21 things my father should have.

22 Sundays, Mondays, and Thursdays were my favorite
23 days because that meant there were some kind of sport, and he
24 would show me the concept of the game. To this day, when
25 people want to talk sports to me, I say I know what I know

1 because Balt taught me.

2 When I attended school in Arlington, he was the one
3 that would be picking me up with his son and my other cousins.
4 Once we would get home, we would go straight outside to play
5 football, basketball, baseball, or even play races, and let me
6 tell you, wasn't that the best part of my day.

7 As I grew up, I played sports, and he would attend
8 my games. As I replay these memories in my head, all I can
9 see is that he was my number one supporter. All I remember
10 was him yelling, come on, Iris, that's your ball, Iris, spike
11 it hard, move around, that's my girl, you got it.

12 I've always had him just a phone call or a text
13 away, and this year, my last year of high school, was the
14 hardest. He wasn't just a phone call away or a text away.
15 There was no way of contacting him to tell him how I was doing
16 in school, problems I was having in or out of school. I had
17 my difficulties this school year. It was hard for me to
18 overcome, which he kept saying that things will come out fine
19 with Mr. Solis.

20 June 2nd, a week ago from today, I graduated from
21 high school, and it was the best yet saddest day of my life.
22 Not having the one that helped me and pushed me through my
23 school years by my side was the hardest. All I wanted was for
24 Mr. Solis to watch me walk across the stage and be able to
25 say, I helped her get there.

1 I feel confident in saying that he is capable of
2 handling any situation with thoughtfulness and maturity. At
3 this point that he has now had the time to think about the
4 consequences that he had upon his reaction, I am willing to
5 help Mr. Solis out with any support that he will need when
6 coming out.

7 I confidently say that Mr. Solis is honest, caring,
8 intelligent and outgoing. As I mentioned, he was a father
9 figure to me and always willing to help me or anyone else with
10 whatever he could help them out with.

11 There were more than thousands of times that I would
12 cry to him asking him, why doesn't my father call me, why
13 doesn't he come see me or come to my games. All Mr. Solis
14 would say was, you don't need him. You will be better than
15 him one day. You will soon realize that you don't need him.
16 You have come this far without him.

17 Until this day, those words are with me, and let me
18 tell you -- let me just say one thing, I made it and I'm a
19 high school graduate with a certification from community
20 college, and I made it without my father. On my behalf, I
21 would like to thank you, uncle, for helping me and pushing me
22 and getting me to where I am today.

23 One memory that will stick with me, when an elderly
24 lady had fell outside of a grocery store, and he ran to the
25 lady to attend the lady with aid. When I think about this

1 memory, I think to myself, he could have just walked by just
2 as others did. However, instead Mr. Solis saw that her
3 husband was struggling, so he reacted quickly to aid the
4 elderly lady with help.

5 I believe that Mr. Solis is innocent on his behalf
6 and what he's being charged for. Society is not gaining
7 anything out of him being in prison. Society will be
8 devastated by long-term sentencing.

9 Mr. Solis will be leaving behind his wife and two
10 kids, or shall I say three, including me. Not only will he be
11 leaving his immediate family left behind, but also his mother,
12 that is a recent widow, and his beloved sisters and brothers.

13 We ask you this day, Your Honor, to feel remorse and
14 leniency for Baldemar Solis, Jr. Keeping him from society
15 will bring pain, tears, and discomfort to family and friends.
16 Mr. Solis will be missed dearly by his family and friends.
17 Thank you for taking your time on behalf of what I have to
18 say. Kindly consider what I have to say when making your
19 decision, Your Honor.

20 Respectfully yours, Iris Garcia.

21 *THE COURT:* Thank you.

22 I had a rearraignment scheduled for -- looks like
23 9:00. We're a little past 9:00. We're going to take another
24 recess, a 15-minute recess, and then that will give y'all an
25 opportunity to organize what you want to say.

1 MS. MOORE: Thank you, Judge.

2 THE COURT: And then we'll go into that
3 rearraignment. So people here for the rearraignment can plan
4 to be back at 11:30.

5 You can be seated.

6 MS. IRIS GARCIA: Thank you.

7 COURT SECURITY OFFICER: All rise.

8 (Recess)

9 COURT SECURITY OFFICER: All rise.

10 (Judge enters)

11 COURT SECURITY OFFICER: Please be seated.

12 THE COURT: Okay. Ms. Moore, why don't you and your
13 client come back to the podium, and you can make whatever
14 statement you would like to make on behalf of your client at
15 this time.

16 MS. MOORE: Your Honor, I had filed a motion for a
17 downward variance.

18 THE COURT: Okay. Did you have any evidence you
19 wanted to offer in support of that?

20 MS. MOORE: No, Your Honor.

21 THE COURT: Okay. You can, in making your
22 statement, say whatever you want to say in support of that
23 motion. Actually, it was a request for downward variance, I
24 think.

25 MS. MOORE: It is, and it says it all. Thank you,

1 Judge, for the opportunity, but that's all I care to say.

2 *THE COURT:* Pardon?

3 *MS. MOORE:* That's recall all I care to say is what
4 I've written in that.

5 *THE COURT:* Okay. Good.

6 Mr. Solis, you have the right to make any statement
7 or presentation you would like to make on the subject of
8 mitigation, that is, the things you think the Court should
9 take into account in determining what sentence to impose, or
10 on the subject of sentencing more generally, and at this time
11 I'll invite you to do that.

12 *THE DEFENDANT:* I'll pass, Your Honor.

13 *THE COURT:* You don't have anything you wish to say?

14 *THE DEFENDANT:* No, Your Honor.

15 *THE COURT:* Pardon?

16 *THE DEFENDANT:* No, sir.

17 *THE COURT:* Okay. Well, I think a life sentence,
18 which is the advisory guideline sentence, is an appropriate
19 sentence in this case. I think it's one that takes into
20 account all of the factors the Court should consider in
21 sentencing under 18 United States Code Section 3553(a) in an
22 appropriate manner.

23 And that would be combined with a term of supervised
24 release of 8 years, if for any reason the defendant were to be
25 released from prison; plus, an obligation to make a special

1 assessment payment of \$100. Of course, that's payable
2 immediately to the United States of America through the office
3 of the clerk of court here in Fort Worth.

4 So that's the sentence I'm going to impose. It's
5 one that is a reasonable sentence, in my view, that does
6 adequately and appropriately address all of the sentencing
7 factors set forth in 18 United States Code Section 3553(a).

8 So the Court's ordering and adjudging that the
9 defendant be committed to the custody of the Bureau of Prisons
10 for a period of life, his life.

11 I'm also ordering that the defendant serve a term of
12 supervised release of 8 years, if he is ever released from
13 prison, and the conditions of that supervised release will be
14 the standard conditions that will be set forth in the judgment
15 of conviction and sentence, and the following additional
16 conditions:

17 He shall not commit another federal, state, or local
18 crime.

19 He shall not unlawfully possess a controlled
20 substance.

21 He shall cooperate in the collection of DNA as
22 directed by the probation officer.

23 He shall refrain from any unlawful use of a
24 controlled substance and shall submit to one drug test within
25 15 days of release from imprisonment and at least two periodic

1 drug tests thereafter as directed by the probation officer.

2 He shall participate in a program approved by the
3 probation officer for treatment of narcotic or drug or alcohol
4 dependency that will include testing for the detection of
5 substance use, and he shall abstain from the use of alcohol
6 and all other intoxicants during and after completion of that
7 treatment, and he shall contribute to the cost of those
8 services at the rate of at least \$25 a month.

9 I'm also ordering the defendant to pay a special
10 assessment of \$100. That's payable immediately to the United
11 States of America through the office of the clerk of court
12 here in Fort Worth.

13 Mr. Solis, you have the right to appeal from the
14 sentence I've imposed. That appeal would be to the United
15 States Court of Appeals for the Fifth Circuit.

16 You have the right to appeal in forma pauperis, that
17 means without any cost to you, if you qualify for it. You
18 have the right to have the clerk of court file a notice of
19 appeal for you, and the clerk would do that forthwith, if you
20 were to specifically request it.

21 You and your attorney have been given a form that
22 outlines certain rights and obligations in reference to an
23 appeal. If you haven't already done so, I want the two of you
24 to review it and be sure you understand it, and once both of
25 you are satisfied you understand it, I want both of you to

1 sign it and return it to the court coordinator.

2 Has that been done, Ms. Moore?

3 MS. MOORE: We did, Your Honor.

4 THE COURT: Okay. The defendant's remanded to
5 custody, and the attorneys are excused.

6 MS. MOORE: Judge, I would like to just --

7 THE COURT: Pardon me, just a minute.

8 (Bench Conference with Courtroom Deputy)

9 THE COURT: Well, I'm reminded he has a sentence
10 either imposed or that is subject to being imposed in Case
11 Number 1276034. That's in the 371st District Court of Tarrant
12 County, Texas.

13 What is that, Ms. Moore? Do you remember?

14 MS. MOORE: Judge, it was an engaging in organized
15 crime charge, I think. If I remember correctly, from looking
16 at the criminal history --

17 THE COURT: Let me -- let me double-check what that
18 is.

19 Engaging in organized criminal activity. Well, so
20 the record will be straight, the sentence I've imposed
21 will -- or that sentence will be consecutive to the sentence
22 I've imposed, which is sort of a moot issue here, but I think
23 there has to be some announcement on that.

24 And what were you saying?

25 MS. MOORE: Just two comments. I don't know if it's

1 really necessary, but I would just like for the record to
2 reflect my objection to the sentence that's been imposed as it
3 is substantively unreasonable.

4 *THE COURT:* Okay.

5 *MS. MOORE:* And one other thing, if I may, Judge.
6 On the penalty enhancement that was filed in this case -- I
7 know I filed a -- I guess a response to that and the
8 government filed a response to it, but if I could either put
9 on some quick evidence on that or make my proffer, whatever
10 the Court prefers.

11 *THE COURT:* Well, the response you filed was not
12 something that would justify having a hearing, so I don't know
13 what it is you want to do.

14 What is it you want to do?

15 *MS. MOORE:* I would like to call Mr. Smith to the
16 stand and ask him maybe two questions.

17 *THE COURT:* I don't think we're going to do that.

18 *MS. MOORE:* Okay. May I make --

19 *THE COURT:* You can tell me what you would hope that
20 he would say, if you had called him.

21 *MS. MOORE:* Yes, sir.

22 Okay. I would ask Mr. Smith, if allowed, whether or
23 not he has filed -- ever filed a penalty enhancement on a
24 defendant that has chosen to plead guilty in a case, and I
25 suspect his answer would be no.

1 THE COURT: Okay.

2 MS. MOORE: And then I would ask if it's true that
3 he only files penalty enhancements when a person exercises
4 their constitutional right to trial by jury, and I think the
5 answer would be yes.

6 THE COURT: Well, he may not agree with the
7 constitutional right part of that, but you've made your
8 proffer.

9 MS. MOORE: Thank you, Judge.

10 THE COURT: Okay.

11 MS. MOORE: May I be excused, sir?

12 THE COURT: Yes, you're excused, and the defendant's
13 remanded to custody.

14 Okay. I told the people for rearraignment to come
15 back at 11:30. If they happen to be here -- well, the
16 defendant's not here, so we'll be back at 11:30.

17 COURT SECURITY OFFICER: All rise.

18 (Recess)

19 (End of Proceedings)

20

21

22

23

24

25

REPORTER'S CERTIFICATE

I, Debra G. Saenz, CSR, RMR, CRR, certify that the foregoing is a true and correct transcript from the record of proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signed this 4th day of September, 2017.

/s/ Debra G. Saenz

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'	438 kilos [1] 6/13	actual -- approximately [1] 11/5
'12 [1] 23/20	46 [2] 58/21 58/23	actually [8] 5/3 8/4 9/25 11/3 39/8 56/21
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